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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 23 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 2.106 of the	)	ET Docket No. 95-18
Commission's Rules to Allocate	)	RM-7927
Spectrum at 2 GHz for Use by the	)	PP-28
Mobile-Satellite Service	)	

**REPLY COMMENTS OF CALIFORNIA OREGON BROADCASTING, INC.**

California Oregon Broadcasting, Inc. ("COBi"), by counsel and pursuant to Section 1.415 of the Rules, hereby submits its reply to the comments submitted in response to the Further Notice of Proposed Rulemaking ("Further Notice"), released in the above-captioned proceeding on March 14, 1997.<sup>1</sup>

In general, the comments of other broadcast and fixed-service licensees reflect COBi's concern that any rules adopted by the Commission pursuant to the Further Notice should preserve the ability of such licensees to maintain the important services they already provide with the least disruption or hardship to themselves or those who rely on them. In particular, COBi supports those parties who insist upon full reimbursement of relocation costs by the superseding Mobile Satellite Service

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<sup>1</sup> Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service, ET Docket 95-18, FCC No. 97-93 (March 14, 1997) ("Further Notice").

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("MSS") licensees, as well as those who oppose the sunseting of such obligation.<sup>2</sup>

However, several parties propose that BAS licensees be forced to pay the cost of relocation of facilities licensed to them in the 2 GHz band after a date certain.<sup>3</sup> These parties maintain that such a requirement will ensure an efficient and cost-effective transition process by discouraging any new BAS use of the band. They also argue that such a proposal is equitable since BAS licensees are now on notice of the pending reallocation of the band to MSS.

COBi strongly opposes the imposition of a requirement that BAS licensees assume some of the cost of relocation of their facilities based on the date such facilities are requested or licensed. As described in its initial comments, COBi relies heavily on a system of fixed-link BAS relays in the 2 GHz band to transmit signals over extensive mountainous terrain.<sup>4</sup> The demands placed on this system are evolving constantly due to such short and long term forces as severe weather conditions,

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<sup>2</sup> See, e.g., Comments of West Central Illinois Educational Telecommunications Corporation at 2-3; Comments of American Petroleum Institute at 9.

<sup>3</sup> See Further Comments of the MSS Coalition at 16 (all new BAS licenses); Comments of BellSouth Corporation at 5 (all BAS applications filed after January 30, 1995); Comments of TRW, Inc. at 6 (all BAS licenses issued after March 14, 1997).

<sup>4</sup> See Comments of California Oregon Broadcasting, Inc., at 1-2.

competitive changes demanding immediate response, immediate deadlines imposed by cable operators receiving program feeds and overall market and population growth. As a result, COBi must modify its system from time to time, even, on occasion, to the extent of adding new relay locations and facilities. Such requirements arise and will continue to arise regardless of COBi's knowledge of the impending 2 GHz reallocation. Thus, the notice argument put forth by the commenters is irrelevant.

The proposal to make BAS licensees responsible for the cost of all new 2 GHz facilities would have the effect of punishing COBi for its efforts to keep up with the demands placed on its system.<sup>5</sup> In effect, COBi would be forced to pay double the price to maintain its public service obligations - both the (reasonable) cost of acquiring and establishing new facilities, and the (unreasonable) cost of relocating or replacing them at such time as COBi must vacate the 2 GHz spectrum given over to MSS use.<sup>6</sup> Such a public-service penalty clearly runs counter to the Commission's stated policy that MSS licensees must fully

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<sup>5</sup> COBi can only assume that the parties making this proposal do not expect broadcast licensees to curtail all BAS expansion prior to reallocation of the spectrum. Competitive forces will not allow COBi or other broadcasters to stand by idly while waiting for resolution of the issues related thereto.

<sup>6</sup> Alternately, COBi could apply for new facilities in another band. However, this would require the conversion of the entire network to which such facilities were linked in order to maintain operation of the system, thus entailing even greater costs to COBi.

compensate those who must vacate the 2 GHz band for their benefit.<sup>7</sup> Those parties advocating the BAS relocation payment plan described herein have presented no compelling reason for the Commission to abandon its initial position and adopt such a requirement.

### **Conclusion**

For the reasons stated herein, the Commission should reject the calls of those parties who seek to require BAS licensees to pay for the relocation or replacement of facilities acquired during or after this proceeding.

Respectfully submitted,

**CALIFORNIA OREGON  
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July 23, 1997

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<sup>7</sup> See Further Notice at ¶70.

**CERTIFICATE OF SERVICE**

I, Lula M. Parker, a secretary with the law firm of Reed Smith Shaw & McClay LLP, hereby certify that I have this 23rd day of July, 1997, caused a copy of the foregoing "Reply Comments of California Oregon Broadcasting, Inc.," to be delivered via First Class Mail, postage prepaid, to the following:

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